

## **EXHIBIT D-41**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

IN RE NAVIENT CORPORATION  
SECURITIES LITIGATION

Case No. 1:17-cv-08373-RBK-AMD

**DECLARATION OF  
KARIN DRYHURST**

I, Karin Dryhurst, hereby certify pursuant to 28 U.S.C. § 1746 that:

1. I am a counsel in the Washington D.C. office of the law firm WilmerHale.
2. I am counsel of record for Navient Corporation and Navient Solutions, LLC (collectively, “Navient”) in a lawsuit brought by the Consumer Financial Protection Bureau in the United States District Court for the Middle District of Pennsylvania, captioned *Consumer Financial Protection Bureau v. Navient Corporation, et al.*, No. 3:17-cv-00101-RDM. This declaration is based on my personal knowledge and my review of the documents described below.
3. In connection with that representation, on November 28, 2018, WilmerHale submitted a Freedom of Information Act (“FOIA”) request to the U.S.

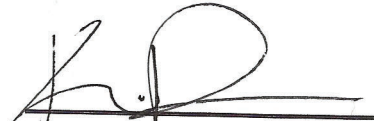
Department of Education on behalf of Navient (the “FOIA Request”). The FOIA Request sought “a copy of the written statement the Department of Education (“ED”), through its spokesperson Liz Hill, provided to Politico reporter Michael Stratford for use in an article published by Politico Pro on November 20, 2018.” The FOIA request also sought “any communications through which Mr. Stratford requested and ED provided this statement, including any descriptions or characterizations of the statement included in such communications.” A true and correct copy of the FOIA Request is attached hereto as Exhibit A.

4. On December 31, 2018, WilmerHale received an initial determination letter from the U.S. Department of Education regarding the FOIA Request. The initial determination letter assigned the FOIA Request a number: “19-00414-F[.]” A true and correct copy of the December 31, 2018 initial determination letter is attached hereto as Exhibit B.

5. On June 26, 2019, WilmerHale received from the U.S. Department of Education a “final response” to the FOIA Request. A true and correct copy of the final response is attached hereto as Exhibit C.

6. The final response attached “5 pages of fully releasable documents that are responsive to” the FOIA Request. A true and correct copy of the responsive documents is attached hereto as Exhibit D.

Executed on the [10]th day of March, 2021.



Karin Dryhurst

# **EXHIBIT A**

WILMERHALE

November 28, 2018

Gary R. Dyal

+1 202 663 6578 (t)  
+1 202 663 6363 (f)  
gary.dyal@wilmerhale.com

**Via E-Mail**

U.S. Department of Education  
Office of Management  
Office of the Chief Privacy Officer  
400 Maryland Avenue, SW, LBJ 2E320  
Washington, DC 20202-4536  
ATTN: FOIA Public Liaison

**Re: Freedom of Information Act Request**

Dear Sir or Madam,

This letter constitutes a request on behalf of Navient Solutions, LLC (“Navient Solutions”) under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”).

Pursuant to the FOIA, we request that you provide a copy of the written statement the Department of Education (“ED”), through its spokesperson Liz Hill, provided to Politico reporter Michael Stratford for use in an article published by Politico Pro on November 20, 2018. We further request any communications through which Mr. Stratford requested and ED provided this statement, including any descriptions or characterizations of the statement included in such communications.

We understand that we can expect a response within 20 days of your receipt of this letter. Within that period, please provide either the documents requested or a written statement of the grounds, including specific provisions of FOIA, for denying, redacting, or withholding any records responsive to this request. Navient Solutions agrees to pay any applicable fees related to this request.

If you have any questions about this request or require further information, please contact me at gary.dyal@wilmerhale.com or (202) 663-6578. Thank you for your attention to this matter.

Sincerely,



## **EXHIBIT B**



# UNITED STATES DEPARTMENT OF EDUCATION

## OFFICE OF MANAGEMENT

### Office of the Chief Privacy Officer

December 31, 2018

Gary Dyal  
WilmerHale  
1875 Pennsylvania Ave. NW  
Washington, DC 20006

### **RE: FOIA Request No. 19-00414-F**

Dear Mr. Dyal:

This is the Department of Education's (the Department) initial determination letter to your request dated, November 28, 2018, seeking information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was forwarded to the appropriate offices within the Department for any responsive documents they may have.

We aim to complete your requests as promptly as possible. At this time, we are unable to provide an estimated completion date, but intend to provide records on a rolling basis as they become available. You can check on the status of your request here:

<https://www2.ed.gov/policy/gen/leg/foia/foiatoc.html?src=ft>

You have the right to seek assistance and/or dispute resolution services from the Department's FOIA Public Liaison or the Office of Government Information Services (OGIS). The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes. OGIS, which is outside the Department of Education, offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation.

They can be contacted by

## **EXHIBIT C**



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY  
*FOIA Service Center*

June 26, 2019

Gary R Dyal  
WilmerHale  
1875 Pennsylvania Ave NW  
Washington, DC 20006

RE: FOIA Request No. 19-00414-F

Dear Gary R Dyal:

This letter is a final response to your request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated November 28, 2018 and received in this office on November 29, 2018. Your request was forwarded to the appropriate office to search for documents that may be responsive to your request: Office of Communication & Outreach (OCO).

You requested the following:

1. We request that you provide a copy of the written statement the Department of Education ("ED"), through its spokesperson Liz Hill, provided to Politico reporter Michael Stratford for use in an article published by Politico Pro on November 20, 2018.
2. We further request any communications through which Mr. Stratford requested and ED provided this statement, including any descriptions or characterizations of the statement included in such communications.

Attached to this e-mail are 5 pages of fully releasable documents that are responsive to your request. The documents provided are:

- Documents pertaining to L. Hill.

Provisions of the FOIA allow us to recover the costs pertaining to your request. The Department has concluded that you fall within the category of an "all other use" requester. However, the Department

Page 2 – Gary R Dyal  
FOIA Request No. 19-00414-F

If you have any questions, please contact the FOIA Service Center at (202) 401-8365 or via e-mail at [EDFOIAManager@ed.gov](mailto:EDFOIAManager@ed.gov).

Sincerely,

*Arthur Caliguiran*

Arthur Caliguiran  
FOIA Analyst  
FOIA Service Center

## **EXHIBIT D**

**From:** [Hill, Elizabeth](#)  
**To:** [Landis, Patricia](#)  
**Subject:** FW: Warren Releases New Evidence of Navient Student Loan Malfeasance  
**Date:** Monday, December 10, 2018 2:22:50 PM

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If they are referring to the Navient case, this is the only correspondence I have with Michael about it on Nov. 20<sup>th</sup>.

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**From:** Hill, Elizabeth  
**Sent:** Tuesday, November 20, 2018 3:39 PM  
**To:** Michael Stratford  
**Subject:** RE: Warren Releases New Evidence of Navient Student Loan Malfeasance

Hi Michael,

No bother. I would ask that you read this entire explanation before you decide to push a story. First, there was no audit. There was an internal review. ***FSA's May 18, 2017 report did not conclude that Navient was improperly steering borrowers into forbearance.*** That report instead documented that FSA reviewed well over 2,000 borrower calls and that, in approximately 9% of those calls, ***it was not clear*** whether Navient had sufficiently discussed options with the borrower. In response to FSA's preliminary conclusions, Navient provided detailed information about each of the calls at issue. Based on FSA's review of Navient's responses and FSA's independent review of Navient's overall performance, FSA has concluded that Navient is substantially in compliance with its obligations.

#### **FSA Review of Navient**

**Overview:** In January 2017, the Consumer Financial Protection Bureau (CFPB) filed suit against Navient, alleging that the company systematically failed to provide student loan borrowers with adequate services. In the wake of this suit, FSA senior management requested an internal review of Navient's activities under their Federal student loan servicing contract to assess the company's compliance with contractual requirements. ***This review was in addition to ongoing oversight and monitoring activities, which had not indicated widespread issues with non-compliance,*** and was intended to provide FSA senior leadership with additional information given

on each borrower's individual circumstances. For example, servicers receive \$2.85 per month for borrowers who are current on their loans but only \$1.05 per month for a borrower in forbearance. We believe this alone provides a significant incentive for servicers to counsel borrowers appropriately regarding the use of forbearance. In addition, our oversight and monitoring activities focus on reviewing servicer activities to ensure borrowers receive courteous, correct, and consistent guidance regarding repayment plans and other loan benefits available to help them manage their debt.

**Review:** As part of the review, FSA conducted a site visit at Navient from March 20-24, 2017. During this visit, FSA staff reviewed Navient's inbound and outbound call processes, listened to and evaluated recorded inbound calls, and conducted side-by-side reviews of live inbound calls. FSA was also provided with recorded outbound calls that were reviewed after the completion of the site visit. The review did not involve detailed assessments on individual borrower cases beyond issues raised on the specific calls under review.

***The review did not result in any findings of non-compliance with contractual requirements.***

Reviewers did document five observations and related recommendations regarding possible improvements Navient could make to their procedures, processes, and training. FSA staff reviewed 2,388 calls. Because in 220 cases, or 9.4 percent of the calls reviewed, Navient did not offer an option other than forbearance, three of these recommendations involved broadening the scope of interactions where forbearances are under consideration to ensure that borrowers are aware of other options available to most effectively manage their debt.

After being provided with the results of the review, Navient responded with extensive information about each of the cases FSA noted in their observations regarding forbearance application and borrower counseling. Navient argued that this review showed that in most cases the representatives followed established call processes and found the appropriate solution for the borrower's situation. FSA included this response without comment in the final site visit report, which was completed on May 18, 2017.

Other elements of FSA's review included an assessment of data across all Federal servicers to determine whether there were any indications of excessive forbearance use or other non-compliant behavior. ***Program data indicated that Navient's overall use of forbearance was consistent with that of other servicers, while the duration of forbearances for Navient borrowers was actually***

AP?

—

Michael Stratford  
Education reporter  
POLITICO  
(o) 703-672-2815  
(c) 617-909-1902  
[twitter.com/mstratford](https://twitter.com/mstratford)

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**From:** Elizabeth Warren Press Office <press@warren.senate.gov>  
**Date:** Tuesday, November 20, 2018 at 3:21 PM  
**To:** Michael Stratford <mstratford@politico.com>  
**Subject:** Warren Releases New Evidence of Navient Student Loan Malfeasance

**FOR IMMEDIATE RELEASE**

November 20, 2018  
Contact: Ashley Woolheater, 202-224-2292

**Warren Releases New Evidence of Navient Student Loan Malfeasance**

***Calls on Navient CEO to Explain Findings of Previously Undisclosed Audit***

***Seeks Explanation for Misinformation Provided to Senate and the Public***

[Text of the Letter \(PDF\)](#) | [Text of the Report \(PDF\)](#)

**Boston, MA** - United States Senator Elizabeth Warren (D-Mass.) sent a letter to Jack Remondi, the President and CEO of Navient Corporation, the nation's largest servicer of federal and private student loans, regarding a previously undisclosed Education Department audit report that reveals Navient's disturbing record of cheating student borrowers and driving them into debt. The Consumer Financial Protection Bureau (CFPB) and several state Attorneys General have sued Navient, and numerous consumer advocates have raised concerns about its appalling practices. The previously undisclosed audit report bolsters the allegations against Navient, and it directly contradicts Mr. Remondi's explicit denial to Senator Warren that such an audit existed.

"Navient told the public that there was no merit to the CFPB's lawsuit even

money than if they had never spoken to the company. These findings appear to validate the allegations that Navient boosted its profits by steering student borrowers into forbearance when that was often the worst financial option for them.

In a lawsuit [filed](#) in January 2017, the CFPB alleged that Navient (formerly Sallie Mae) unfairly steered struggling student borrowers into forbearance plans that caused them to pay more than they had to on their student loans. According to the CFPB, from January 2010 to March 2015, Navient added up to \$4 billion in interest charges to the principal balances of borrowers who were enrolled in multiple, consecutive forbearances. This audit report raises questions about whether a significant portion of these charges could have been avoided had Navient acted in the best interests of these borrowers. It also gives disturbing new weight to Navient's astounding assertion in response to the CFPB's lawsuit that, "There is no expectation that the servicers will act in the interest of the consumer."

Senator Warren called on Remondi to retract the falsehoods exposed by this audit, explain why he denied to her that such an audit existed, and explain his company's longstanding record of unfair and deceptive practices.

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